

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**KIRBY TATE**

**PLAINTIFF**

**V.**

**NO. 4:08CV073-P-D**

**EARNESTINE STARKS, et al.**

**DEFENDANTS**

**ORDER OVERRULING OBJECTIONS and ADOPTING  
REPORT AND RECOMMENDATION**

The Plaintiff, an inmate proceeding with the benefit counsel, brings this complaint pursuant to 42 U.S.C. § 1983. Plaintiff's complaint included claims for, *inter alia*, retaliation and denial of access-to-the-courts for which Plaintiff is seeking monetary damages and equitable relief. The Defendants filed a motion for summary judgment. The Plaintiff has filed two motions to dismiss certain Defendants. The Plaintiff also filed a motion for contempt of the consent decree in *Presley v. Epps*, 4:05CV148. The Magistrate Judge has submitted a Report dated February 25, 2009, recommending summary judgment for the Defendants and denial of Plaintiff's motions.

The Plaintiff, though counsel, has filed his objections. The court finds that for reasons stated in the Report and Recommendation, Plaintiff's objections are not well taken. *See Pichardo v. Kinker*, 73 F.3d 612, 612-13 (5th Cir. 1996) ("absent extraordinary circumstances, administrative segregation as such, being an incident to the ordinary life as a prisoner, will never be a ground for a constitutional claim."); *see also Hernandez v. Valasquez*, 522 F.3d 556, 563-64 (5th Cir. 2008) (temporary lockdown designed to prevent gang-related violence is to be expected as an ordinary incident of prison life).

**THEREFORE**, it is hereby **ORDERED** that

(1) the Plaintiff's objections to the Report and Recommendation of the United States Magistrate Judge are **OVERRULED**;

(2) the Report and Recommendation (docket entries 46 and 47) is **APPROVED** and **ADOPTED** as the opinion of this court;

- (3) Defendants' motion for summary judgment (docket entry 36) is **GRANTED**;
- (4) Plaintiff's motions to dismiss (docket entries 43 and 44) are **DENIED AS MOOT**;
- (5) Plaintiff's motion for contempt (docket entries 10 and 37) is **DENIED**;
- (6) Plaintiff's motion to compel (docket entry 35) is **MOOT**; and
- (7) this matter is **CLOSED**.

SO ORDERED, this the 30<sup>th</sup> day of March, 2009.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE